

REMARKS

Summary of the Office action

Claims 1-61 are pending in the application.

All claims have been rejected as either anticipated by or rendered obvious over Espiau et al., U.S. patent publication No. US 2002/0011802, which corresponds to U.S. patent application Serial No. 09/809,718 ("the Espiau application"). Rejection over Espiau constituted a new ground of rejection.

Applicants' Reponse

As set forth below, applicants are the true and correct inventors of the invention disclosed in the Espiau application.

Because the invention set forth in the pending claims is for the same invention as claimed in the as-published Espiau application, applicants submit herewith a Request for Interference with that application pursuant to 37 C.F.R. §1.604. Applicants further submit that Espiau is not prior art to their invention.

Applicants also have added new claims 62-108.

New claims 62-108 are copied from as-published claims 1-24, 26-29, 31-37, 40-43, 46, 47 and 49-54 of the Espiau application. The Espiau application was filed on March 15, 2001, and claims priority to U.S. provisional patent application Serial No. 60/222,028, filed on July 31, 2000.

Applicants respectfully submit that new claims 62-108 are fully supported in applicants' as-filed specification. Applicants respectfully request an interference with the '718 application be declared.

Request Under 37 C.F.R. § 1.604
For Interference With Application

Pursuant to 37 C.F.R. § 1.604, applicants hereby request that an interference be declared between the present application and U.S. patent application Serial No. 09/809,718 ("the Espiau application"). The present application was filed March 26, 2001, and claims the benefit of priority of the following U.S. provisional patent applications:

Serial No. 60/192,731, filed March 27, 2000;
Serial No. 60/224,059, filed August 9, 2000;
Serial No. 60/224,298, filed August 10, 2000;
Serial No. 60/224,290, filed August 10, 2000;
Serial No. 60/224,291, filed August 10, 2000;
Serial No. 60/224,257, filed August 10, 2000;
Serial No. 60/224,289, filed August 10, 2000;
Serial No. 60/224,866, filed August 11, 2000;
Serial No. 60/234,415, filed September 21, 2000.

I. Identification of Applications
(37 C.F.R. § 1.604 (a) (2), (b))

Applicants request that an interference be declared against the Espiau application identified hereinabove. Applicants understand that, based on the file History Contents pages available on the public version of PAIR, the Espiau application is in preparation for issuance. For the reasons set forth hereinbelow, applicants respectfully submit that the Office should withdraw the Espiau application from issuance pursuant to 37 C.F.R. § 1.313(b)(4) to consider the appropriateness of declaring the requested interference.

II. Presentation of Proposed Counts
(37 C.F.R. § 1.604(a) (1))

Applicants respectfully present the following proposed counts:

Count 1

A lamp comprising:

a waveguide having a body comprising a dielectric material, said waveguide configured to be connected to an energy source for receiving electromagnetic energy; and

a bulb coupled to the waveguide and containing a gas-fill that emits light when receiving the electromagnetic energy from the waveguide.

Count 2

A method for producing light comprising:

generating electromagnetic energy;

directing the electromagnetic energy into a dielectric waveguide having a cavity;

directing the electromagnetic energy into an envelope defined by the cavity and a window, the envelope containing a gas-fill; and

exciting the gas-fill into producing light.

Proposed Count 1 is identical to applicant's claim 62; proposed Count 2 is identical to applicant's claim 104.

III. Identification of Applicants' Claims
Corresponding to the Proposed Counts
(37 C.F.R. § 1.604 (a) (1))

Applicants submit that claims 1-103 correspond to proposed count 1, and claims 104-108 correspond to proposed count 2.

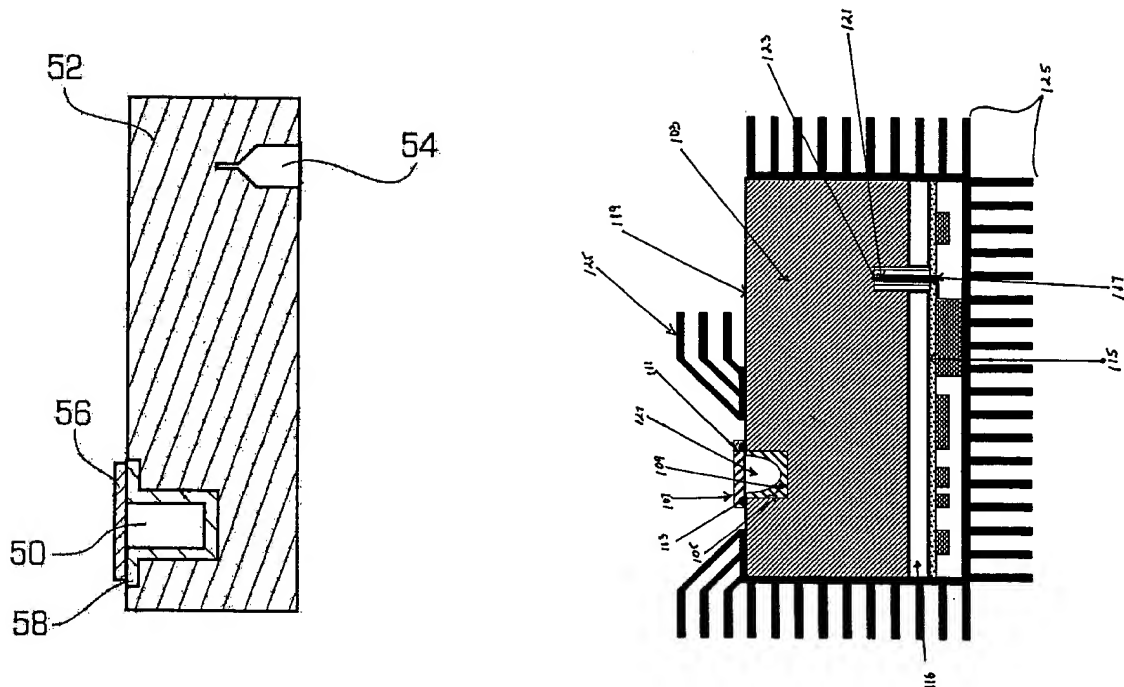
IV. Identification of the Espiau Application
Claims Corresponding to the Proposed Counts
(37 C.F.R. § 1.604 (a)(2))

Applicants submit that claims 1-24, 26-29, 31-37, 40-43, 46, 47 and 49 of the Espiau application should be designated as corresponding to proposed count 1, and claims 50-54 of the Espiau application should be designated as corresponding to proposed count 2.

V. Why an Interference Should Be Declared
(37 C.F.R. § 1.604 (a)(3))

Newly added claims 62-103 of this application are substantially identical to claims 1-24, 26-29, 31-37, 40-43, 46, 47 and 49-54 of the Espiau application. New claims 62-108 are fully supported by the disclosure of the present application, or constitute obvious variants as would be apparent to one of ordinary skill.

Applicants' specification discloses with respect to FIG. 3 a ceramic waveguide having a substantially elongated prismatic configuration. The waveguide accepts a source of RF energy 54 at one end and has gas-filled cavity (including liner 58 and light transmissive window 56) at the other. This precise structure is disclosed and claimed in the Espiau application. Compare, FIG. 3 of the present application (on the left) to FIG. 1 of Espiau (on the right), reproduced below:



Applicants submit that the identity of the invention as disclosed in the present application and that of Espiau et al. is not coincidental.

In late 1999 and 2000, one of the former assignees of the present application, Digital Reflections, Inc. ("DRI"), retained Turner Engineering Co. ("Turner") to provide assistance in designing certain of the RF components to be used with the plasma lamp of the present invention. The alleged inventors of the Espiau application - Mr. Espiau, Mr. Joshi and Mr. Chang - were employees or consultants of Turner at that time. In connection with the work to be performed by Turner for DRI, applicants provided their pre-existing details of the plasma lamp of the present invention to Turner, including the alleged inventors of the Espiau application.

Because the Patent and Trademark Office appears to have determined that the claims of the Espiau application are allowable, then those claims also are patentable to applicants, and applicants are entitled to make those claims.

Applicants invented the subject matter of the proposed counts prior to the applicants of the Espiau application - indeed, applicants disclosed the invention to applicants of the Espiau application, in confidence and pursuant to the agreement between DRI and Turner. Accordingly, an interference should and must be declared.

Applicants note that claims of similar or broader scope to claims 62-104 have been present in applicants' application since filing of the present application on March 26, 2001, and accordingly, applicants' request for interference is in compliance with 35 U.S.C. § 135(b)(1) and b(2).

VII. Conclusion

An early and favorable action declaring an interference between the present application and the Espiau application is respectfully requested.

Respectfully submitted,



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